



Washington State  
Department of Health  
Board of Osteopathic Medicine and Surgery  
Meeting Minutes  
September 21, 2007

The meeting of the Washington State Board of Osteopathic Medicine and Surgery was called to order by Daniel Dugaw, DO, Chair, at 9:05 a.m. The meeting was held at: St. Francis Hospital, 34515 9<sup>th</sup> Avenue South, Board Room, Federal Way, Washington 98003.

Board Members Present: Daniel Dugaw, DO, Chair  
William Gant, Public Member, Vice Chair  
Thomas Shelton, DO  
Roger Ludwig, DO  
Catherine Hunter, DO

Staff Present: Blake Maresh, Executive Secretary  
Melissa Burke-Cain, Assistant Attorney General  
Arlene Robertson, Program Manager  
Erin Obenland, Disciplinary Program Manager  
Judy Young, Staff Attorney  
Joe Mihelich, Administrative Staff

Open Session

1. Call to Order
  - 1.1 Approval of Agenda

The agenda was approved as published.

- 1.2 Approval of Minutes - July 27, 2007 meeting

The minutes of the July 27, 2007 meeting were approved.

1.3 Approval of Minutes - August 15, 2007 conference call minutes

The minutes of the August 15, 2007 conference call were approved.

1.4 Approval of Minutes - September 5, 2007 conference call minutes

The minutes of the September 5, 2007 conference call were approved.

2. Rules - Review input from workshops and take additional comments on proposed rules

2.1 CR101 - WSR 07-16-064 - Laser, Light, Radiofrequency, and Plasma Devices.

2.1.1 Rules Workshop Presentation

2.1.2 Osteopathic Physician/Osteopathic Physician Assistant draft rules language

2.1.3 Draft Osteopathic physician assistant practice plan addendum for using LLRP devices

ISSUE

The Board considered the background information provided at the two rules workshops which included proposed rules language adapted from the medical (MD and PA) rules.

The Board discussed Section (10) which specifies who may perform procedures under delegation. A practitioner "may delegate an LLRP device procedure to a properly trained and licensed professional, whose licensure and scope of practice allow the use of an LLRP device,...". In addition to health care professionals, this could include estheticians whose rules were changed August 1, 2007 to read, "(20) **Medical devices.** Any medical device listed with the U.S. Food and Drug Administration as a "prescriptive device" must be used within the scope of RCW 18.16.020 (12) under the delegation and supervision of a licensed physician, or physician's assistant or an advanced registered nurse practitioner (ARNP) as defined under chapters 18.71, 18.57, 18.71A, and 18.57A, and RCW 18.79.050."

The Board reviewed the definition of the "Practice of esthetics" as stated in the Cosmetology Act. The esthetician statute focuses on the care of the skin by application and use of preparations, antiseptics, tonics, essential oils, or exfoliants, or by any device or

equipment, electrical or otherwise, or by wraps, compresses, cleansing, conditioning, stimulation, pore extraction, or product application and removal; the temporary removal of superfluous hair by means of lotions, creams, mechanical or electrical apparatus, appliance, waxing, tweezing, or depilatories; tinting of eyelashes and eyebrows; and lightening the hair, except the scalp, on another person. The scope of practice does not appear to include procedures that require training as outlined in the rules, i.e., cutaneous medicine, indications and contraindications for performing medical procedures with LLRP devices, preprocedural and postprocedural medical care, potential complications, and infectious disease control involved with each type of treatment.

The Board also reviewed an addendum to the osteopathic physician assistant practice plan relative to approval to use an LLRP device.

#### ACTION

The Board determined the rules must protect the public by requiring LLRP devices be used only by properly trained medical practitioners. The draft rules approved by the Board provide that the osteopathic physician or osteopathic physician assistant must (a) be trained in the use of an LLRP device, (b) examine the patient to determine whether treatment with an LLRP device is appropriate for the patient's condition, (c) make sure the person administering the treatment is appropriately trained, (d) delegate to another health care practitioner whose scope of practice includes the use of a prescriptive device, (e) ensure the device is used in accordance with standard medical practice, (f) be on site for any treatments or have a back-up physician available to treat complications, (g) establish a quality assurance program, and (h) provide appropriate follow-up care.

The CR103 will be filed with the approved language.

The practice plan addendum was approved to require training documentation. The addendum will be implemented upon adoption of the rules.

- 2.2 CR101 - WSR 07-16-143 - Non-surgical Cosmetic Procedures - Delegation and supervision by osteopathic physicians and osteopathic physician assistants.
  - 2.2.1 Rules Workshop Presentation

## 2.2.2 ASAPS Injectable quick facts

### ISSUE

Background information on some of the more common non-surgical cosmetic procedures was reviewed. The Board will identify the type of procedures in the rules and whether they can be delegated and to whom. The rules will encompass procedures using external treatment of the skin and injections to alter skin or appearance.

### ACTION

The Board provided staff with guidance regarding non-surgical cosmetic procedures. The Board indicated most procedures should not be delegated. None of the cosmetic injections should be delegated to a health care assistant. It may be appropriate to delegate some types of injections to registered nurses but not licensed practical nurses. The skin care treatments should not be delegated except for possibly light chemical peels.

Staff will coordinate with the Medical Commission staff regarding the direction the Commission is taking in drafting their rules. Further information will be reviewed by the Board once it is available.

2.3 CR101 - WSR 07-16-141 - Office-based Surgery - Administration of Sedation and Anesthesia, including necessary training and equipment requirements. Rules will address supervision requirements for osteopathic physician assistants.

2.3.1 Rules Workshop Presentation

2.3.2 Office-Based Surgery Criteria adapted from the Federation of State Medical Model

2.3.3 Ambulatory Surgical Centers - Facilities and Services responsibilities outlined in ESHB 1414

2.3.4 Osteopathic Physician Assistant Practice Plan

### ISSUE

The OBS information reviewed by the Board shows the office-based surgery rules for each profession will likely have some overlap with the ambulatory surgical facility rules being implemented by Facilities and Services Licensing (FSL). In order to continue working on the Board's rules there may be some duplication of effort with FSL. After FSL has identified what to include in the ambulatory surgical facility licensing, duplicate or conflicting language will have to be worked out.

A review of the current practice plan indicates osteopathic physician assistants can practice independently in the operating room. It also indicates that 1<sup>st</sup> Assist and 2<sup>nd</sup> Assist for both minor and major surgery can be done independently. Staff asked for clarification about a PA performing surgery without the supervising physician available on the premises while analgesia/sedation or anesthesia is being used.

#### ACTION

The Board plans to proceed with preliminary work on the OBS rules. Details will be worked out later, if necessary.

It was determined the "1" after Operating Room on the practice plan was an error. The practice plan was changed to correctly reflect that "Operating Room" is a primary category and the procedures describe what the PA is able to do and the supervision level required. Staff will make the applicable correction to the practice plan.

#### 2.4 Mandatory Reporting Rulemaking Update on status of rules process.

Ms. Robertson reported two workshops had been held to gather information for drafting the rules language. When draft language is available, it will be sent out for review and comments.

#### 2.5 Uniform Procedures for Complaint Resolution CR102 - The proposed rules would eliminate the paper-based procedure and rely on management oversight based on electronic tracking systems. Documentation would be included in the file.

The proposed rules modifying the extension process for case tracking was provided for review. The proposed rules were provided to inform the Board of process changes. No action was required.

### 3. Scope of Practice

#### 3.1 Correspondence from Lakewood Pathology Associates, Lakewood, New Jersey - Licensure requirements for pathology diagnostic services on specimens collected in Washington.

This matter was tabled for review by the Assistant Attorney General. Ms. Burke-Cain will conduct a review of the statute to discuss at the next meeting.

### 3.2 Treating Partners of Patients with Sexually Transmitted Chlamydia and Gonorrhea - Medical Quality Assurance Commission Policy

The policy was provided as information only. No action was required.

## 4. Program Manager Reports

### 4.1 Budget Report - 2007 Biennium

Ms. Robertson provided the end of the biennium budget. The Board's expenditures for the 2005-2007 biennium exceeded \$1 million for the first time. The additional expenditures were attributed to several large disciplinary cases that had occurred during the biennium.

### 4.2 Budget Report - September 2007

There was no report since much of the 2007-2009 budget figures had not been entered into the system.

### 4.3 Washington Physicians Health Program - July 2007 Statistical Information

The July 2007 statistics for the WPHP program were provided. No action was necessary.

### 4.4 Doctors not prepared for new prescription pad rules

An article relative to the change in prescription requirements was provided. This is a Federal law which impacts provider reimbursements by Federal programs. The law pertains to individuals and does not require any action by state licensing boards.

### 4.5 Federation of State Medical Boards visit to November 16<sup>th</sup> meeting

Ms. Robertson reported that representatives from the FSMB are available to attend the board meeting on November 16<sup>th</sup>. In addition to their presentation at the board meeting, they have invited board members and management staff to dinner on Thursday evening. Ms. Robertson indicated board members

should let her know if they plan to attend the dinner. They will be contacted closer to the meeting relative to their attendance.

## 5. Executive Director Reports

### 5.1 Department/Division Updates

#### 5.1.1 2007 BCC Annual Survey

Mr. Maresh provided more context regarding the BCC annual survey. Although the board member participation was low, the responses were positive. Mr. Maresh expressed his availability to discuss the survey more in-depth. He also indicated he was always open to discuss any issues the board members might have.

#### 5.1.2 State Auditor's Office DOH Performance Audit

Mr. Maresh updated the Board on the audit findings and recommendations. He indicated that Legislative hearings are being held to review the audit findings. The Department has already been working on many of the issues identified in the audit.

5.1.3 Mr. Maresh indicated he was involved in meetings to obtain feedback to assist the Department in writing rules to implement 2007 legislation to identify a sixty day supply of medical marijuana. As part of the same bill, the Board was added to serve in consultation with the Medical Quality Assurance Commission in approving new medical conditions that can be treated with medical marijuana.

5.1.4 Mr. Maresh asked if the continuing medical education requirements for the osteopathic profession had requirements for training in pain management. The general continuing education rules do not. The pain management rules do require those who practice pain management to have additional training in that specialty of medicine.

### 5.2 Legislative Issues

There were no topics for discussion.

### 5.3 Citizen Advocacy Center Annual Conference

Mr. Maresh reminded the Board about the upcoming conference October 29-31. Anyone interested in attending should let staff know as soon as possible.

6. Correspondence

6.1 Letter from Governor Christine O. Gregoire regarding the performance audit of Health Professions Quality Assurance

ISSUE

The Board reviewed the letter from Governor Gregoire addressing patient safety as a top priority. The Governor requested the Board adopt the sanction guidelines. Other recommendations included use of a common set of threshold guidelines to identify cases to be investigated and to delegate the decision to investigate to Department staff through rulemaking. The Department was directed to develop specific criteria to assess complaints for imminent danger, adopt mandatory reporting rules by March 2008, organize credentialing and compliance practice to assure that these activities are handled in a timely, consistent and effective manner across all health care professions.

ACTION

A decision on adoption of the sanction guidelines was tabled for further consideration at the November meeting.

6.2 Federation of State Medical Boards - 1<sup>st</sup> call for Bylaws Changes

ISSUE

The Federation of State Medical Boards (FSMB) is requesting any amendments or revisions to the FSMB bylaws be submitted by November 1, 2007.

ACTION

The Board had no requests for changes to the bylaws.

7. (*Open Session*) Settlement Presentations

7.1 David Asmussen, DO - Docket No. 06-07-A-1009OP  
Stipulated Findings of Fact, Conclusions of Law and Agreed Order - Presented by Judy Young, Staff Attorney

Judy Young, Staff Attorney, presented the proposed Stipulated Findings of Fact, Conclusions of Law and Agreed Order. Panel members were Daniel Dugaw, DO; Roger Ludwig, DO; and William Gant, Public Member.

Deliberations were held in Executive Session. Dr. Asmussen will be advised of the Board's decision in writing.



Closed Session

8. Statement of Allegations/Stipulation to Informal Disposition presentations

There were no Informal Dispositions for consideration.

9. Report Reviews/Investigative Authorizations

One report was reviewed. The following report was closed below threshold: 2007-0900010P.

10. Disciplinary Case Reviews - Reviewing Board Member Reports

<u>CASE NUMBER</u>	<u>CASE DISPOSITION</u>
2006-06-00030P	Closed no action - Issue license
2006-12-00050P	Closed no cause for action; evidence does not support a violation.
2007-05-00020P	Closed no cause for action; evidence does not support a violation.
2007-03-00040P	Closed no cause for action; evidence does not support a violation.
2007-03-00050A	Closed no cause for action; evidence does not support a violation.
2007-02-00010P	Closed no cause for action; evidence does not support a violation.
2007-02-00040P	Closed no cause for action; evidence does not support a violation.

11. Open case report

The report of current open cases was provided as information only. No action was required.

12. Compliance Issues

Mr. Gant reported that Ronald C. Brockman, DO - Docket No. 01-09-A-10250P (Case No. 2000-11-00020P), had completed all of his compliance requirements. He recommended reinstatement of Dr. Brockman's license without restrictions.

The Board approved reinstatement of Dr. Brockman's license. He will be sent a formal release indicating he has completed the conditions of the order.

13. Application Review

There were no applications for review.

The meeting adjourned at 12:45 p.m.

Respectfully Submitted

Arlene A. Robertson  
Program Manager

NOTE: PLEASE VISIT THE WEB SITE FOR FUTURE AGENDAS AND MINUTES - <a href="http://WWW.DOH.WA.GOV">WWW.DOH.WA.GOV</a> . GO TO LICENSING AND CERTIFICATION AND YOU WILL FIND A LIST OF THE HEALTH CARE PROFESSIONS, GO TO OSTEOPATHIC PHYSICIANS FOR AGENDAS AND MINUTES.
--